

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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VICTOR APONTE,

Plaintiff,

v.

9:18-CV-0524  
(GLS/ATB)

COMMISSIONER ANTHONY ANNUCCI et.  
al.,

Defendants.

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APPEARANCES:

VICTOR APONTE  
Plaintiff, Pro se  
5812 N. Marshall Street  
Philadelphia, PA 19120

GARY L. SHARPE  
Senior United States District Judge

**ORDER**

Plaintiff Victor Aponte commenced this pro se action by filing a civil rights complaint pursuant to 42 U.S.C. § 1983 ("Section 1983") together with a motion for leave to proceed in forma pauperis. Dkt. No. 1 ("Compl."); Dkt. No. 2 ("IFP Application"). The complaint asserted claims arising, if at all, while Plaintiff was confined in Clinton Correctional Facility ("Clinton C.F."). *See generally* Compl. By Decision and Order filed June 28, 2018 (the "June Order"), Plaintiff's IFP Application was granted and following review of the Complaint in accordance with 28 U.S.C. § 1915(e)(2)(B) and 28 U.S.C. § 1915A(b), defendants C.O. Stickley and C.O. Jensen were directed to respond to the Eighth Amendment excessive force

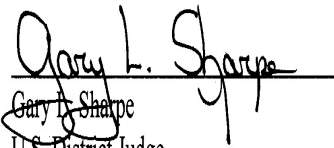
claims and defendant Sgt. Kino was directed to respond to the First Amendment retaliation claim. Dkt. No. 4. On July 2, 2018, the Clerk of the Court issued summonses to Stickley, Jensen, and Kino. Dkt. No. 5.

On August 13, 2018, the Office of the Attorney General filed a letter advising that there were no employees at Clinton C.F. by the names of C.O. Stickley, C.O. Jensen, or Sgt. Kino. Dkt. No. 7. On August 23, 2017, the three summonses were returned to the Court "unexecuted." Dkt. No. 9. On September 7, 2018, the Office of the Attorney General provided additional information in an effort to assist the Court in identifying the defendants. Dkt. No. 10.

The Clerk of the Court is directed to forward a copy of the Attorney General's letters (Dkt. Nos. 7, 10), the original complaint, and a blank form complaint to Plaintiff. Within **THIRTY DAYS** of the within Order, Plaintiff shall file an Amended Complaint that correctly identifies the John Doe Defendants named in his original Complaint. If Plaintiff fails to file an Amended Complaint within the time period prescribed herein, the action will be dismissed without prejudice.

**IT IS SO ORDERED.**

September 10, 2018  
Albany, New York

  
Gary L. Sharpe  
U.S. District Judge